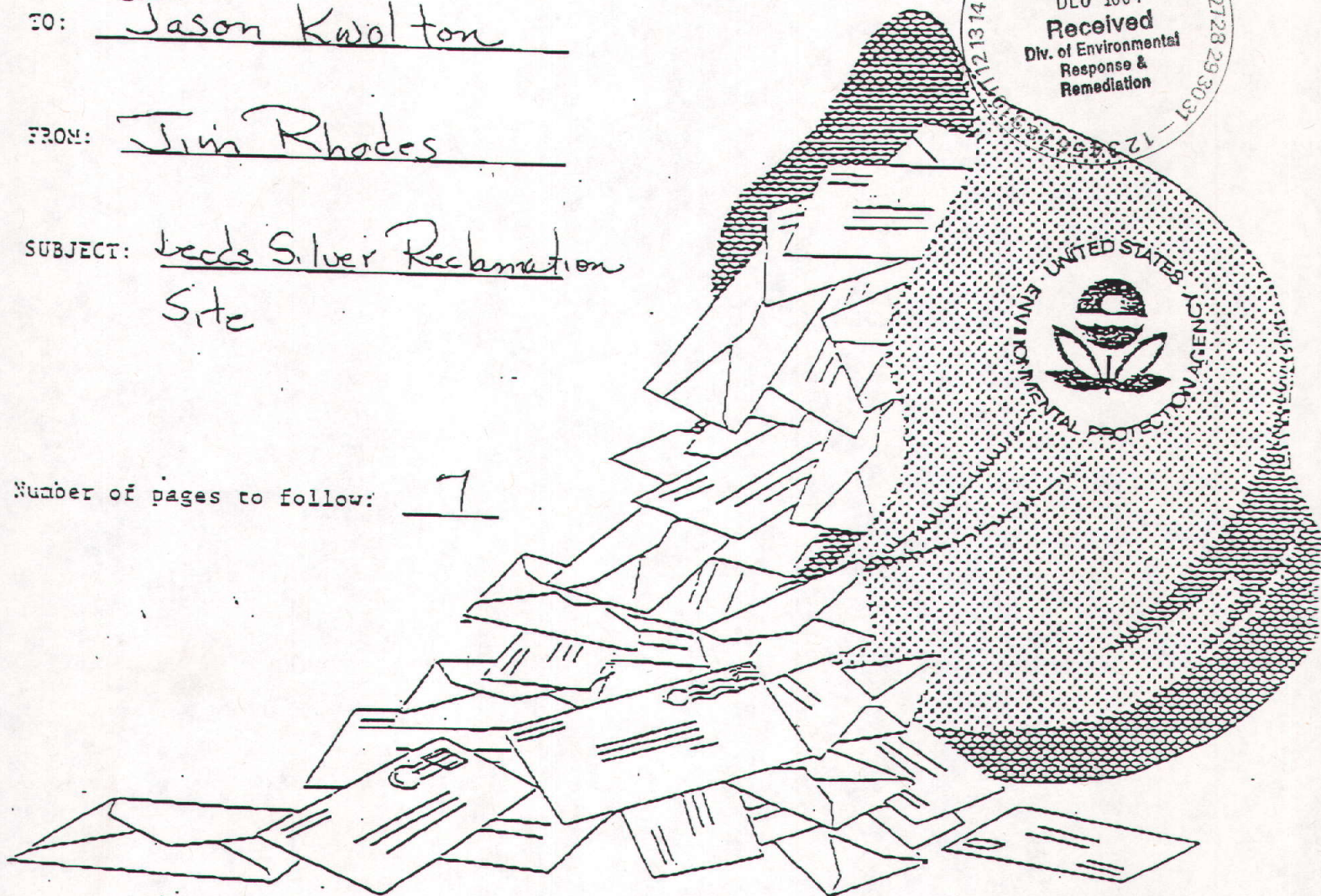
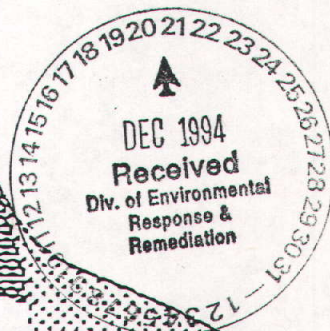


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2405

-- Emergency Response Branch --

TO: Jason KwoltonFROM: Jim RhodesSUBJECT: Leads Silver Reclamation
SiteNumber of pages to follow: 7

COMMENTS:

Jason:

Let me know if you need additional info.

JimPlease call (303) 294-7040 if you have any problems.

Our return fax number is (303) 294-7168. Thank you.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500

DENVER, COLORADO 80202-2466

Ref: 8HWM-SR

DEC 16 1994

Honorable Met Johnson
Utah State Representative
P.O. Box 560
New Harmony, UT 84757

Dear Representative Johnson:

Thank you for your letter of December 3, 1994, on behalf of the 5M Company regarding its involvement at the Leeds Silver Reclamation Site (Site) in Hidden Valley, Utah. I would agree that 5M Company has been most cooperative with cleanup efforts thus far, and I appreciate the opportunity to provide the following information toward addressing the concerns noted in your letter.

I should first clarify that the U.S. Environmental Protection Agency (EPA) works very closely with the Utah Department of Environmental Quality (DEQ) on all environmental issues in the State. While the Superfund program cannot be fully delegated to states, as are other environmental programs, we rely on state agencies' assistance in all steps of our Superfund response and cleanup activities.

Secondly, I can appreciate how frustrating it can be for non-government entities to try to deal with the various federal and state agencies involved with site cleanups. Since EPA first became involved at the Site in early 1992, numerous contacts and meetings have been held with representatives of 5M, Inc., the Bureau of Reclamation (BOR), the Bureau of Land Management (BLM), and the Utah DEQ for the purposes of discussing the issues and concerns surrounding the potential hazardous conditions at the Site. Although communication of these issues and concerns may not have been as effective as they could have been, we are currently focusing on ways to better coordinate and communicate our future cleanup efforts at the Site with representatives of the above organizations. These Federal and state agencies are essential in helping us ensure that cleanups provide adequate protection for the affected natural environment, as well as being protective of human health.

Your concerns regarding the tone of our notices and letters requesting more information from potentially responsible parties are similar to many we receive, particularly from smaller parties. While these notices and letters have been standardized by EPA Headquarters to be used by EPA regional offices throughout the United States, we recognize that the letters, the way they are written, can be extremely intimidating and intrusive. As EPA strives for better public outreach and environmental education, your comments will be included in our efforts.



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I hope this information will help address your concerns. If EPA may provide anything further, please do not hesitate to call me at (toll free) 800-227-8917, ext. 7129, or Jim Rhodes, our Enforcement Specialist for this site, at ext. 7040. Jim and I can also be reached at (303) 294-7129 or 294-7040.

Sincerely,



John R. Giedt, Chief
Emergency Response Branch



5M, INC., P.O. BOX 752, HURRICANE, UTAH 84737 (801) 635-4473

November 11, 1994

U.S. ENVIRONMENTAL PROTECTION AGENCY
Region VIII
444 18th Street - Suite 500
Denver, Colorado 80202-2466

Attn: Mr. Peter Stevenson
On-Scene Coordinator (OSC)

Ref: EPA letter to 5M, Inc. from Mr. John R. Giedt, Chief
Emergency Response Branch, dated October 26, 1994

Dear Mr. Stevenson:

The referenced letter gives notice to 5M, Inc. that the EPA is considering making expenditures for the Leeds Silver Reef Reclamation Site, located at Leeds, Washington County, Utah, in which present and past owners/operators are being asked to participate. In response thereto, 5M, Inc. is at this time respectfully submitting and addressing the following information.

It would appear the EPA believes there may exist a threatening release of a hazardous substance at the Site, and the EPA intends to hold certain parties, including 5M, Inc. as a present owner, liable for all costs incurred by the government in conducting investigations, planning, and overseeing of future remedial actions. Specifically, the EPA apparently has concerns of possible contamination of surface water, ground water, and soils at the Site. The referenced letter encourages 5M, Inc. to voluntarily undertake remedial actions which are to be overseen by the EPA and others.

It is mentioned that drainage controls may be effective in abating the threat, and may become a primary action for EPA's Administrative Record file, which eventually will contain the documents related to the Site actions. It is stated a copy of this file will be forthcoming and available sometime in the future and made available at a location near the Site where 5M, Inc. will then be able to review and comment on the contents of the Administrative Record.

Further, the EPA suggests good faith negotiations between 5M, Inc., the EPA, and other parties at the Site, be encouraged and established, for which 5M, Inc. has been given seven days from receipt of the referenced letter to respond directly to you as the On-Scene Coordinator. This response apparently is to include

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a confirmation of 5M, Inc.'s wish to participate and to become involved in an Administrative Order of Consent. It is stated that the EPA is finalizing a Work Plan to be used as the basis for actions to be implemented under the Administrative Order of Consent. It further advises, however, that the scheduled period for negotiations will end on November 30, 1994, at which time if an agreement has not been reached, EPA may decide to issue a Unilateral Administrative Order directing 5M, Inc. to conduct the removal action, and further, that EPA may proceed with actions before the end of this period. It is stated that should 5M, Inc. have any questions to please contact Ms. Susan Nash, Assistant Regional Counsel, or Mr. James Rhodes of your office.

Mr. Stevenson, we certainly do have many questions at this time for you as well as for Ms. Nash and Mr. Rhodes. We accordingly are sending copies of this letter and reference to each of them, asking for their response and assistance.

First of all, is the EPA aware that 5M, Inc. has spent countless hours and days, as well as money, over the past two years in helping the Color Country Subdivision, adjacent to the Site, to find a new water source? As the EPA may recall, this entire issue involving the EPA, evolved when this subdivision encroached on our private property at the Site and drilled a domestic water well which tapped into our underground mining tunnels for use as a source of drinking water for their subdivision needs. Please be advised that through the combined efforts of 5M, Inc. and the subdivision management, together with the help and assistance of the Utah State Water Engineer, the subdivision now has an alternative water source for domestic use and is no longer relying on the 5M, Inc. mine property to supply culinary water.

Again it should be noted that the voluminous documentation submitted to the EPA by 5M, Inc. over the past two years, at a high cost in time and money, has pointed out repeatedly that the Silver Reef mine property has literally millions of tons of commercial ores yet to be mined for the recovery of the base, fissionable, and precious metal content of the ores, and for the EPA now to classify these very valuable minerals within the mineral ore deposit as hazardous is a very dangerous precedent to establish for the mining industry in the United States. Especially is this so if any future production of ore is to be maintained nationally from any such ore deposits. These minerals you are calling hazardous exist free in nature in the ores, and will have to be dealt with on a daily basis for years to come on all tonnage mined.

5M, Inc. has also tried very hard to explain to the EPA that we are a small business, simply trying to survive in the mining business world, which in itself is a horrendous challenge today. Is the EPA aware that 5M, Inc. is being caught in the cross fire of several governmental agencies right now, all having conflicting mandates at the Silver Reef Site? For instance, the U.S. Federal

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Fish and Wildlife Service has included our mining lands to be within the protected Tortoise Habitat District, and we are told that we are not to turn a shovel of dirt, grade roads, mine or do anything of this nature without an agreement and approval from them, otherwise we will have our equipment confiscated and be fined and prosecuted.

Also, the U.S. Bureau of Land Management, through their mining regulators, are now pressuring 5M, Inc. to give them an updated Mining and Processing Plan for continued operations. The same Bureau, through their environmental regulators, has recently chosen to classify the EPA Site as Wet Lands, and want no further activities on the Site, with threats to seek legal action if necessary.

And finally, the Utah Division of Oil, Gas, and Mining, which approved the 5M, Inc. mining and processing operations at the Site, is now requesting a mining, processing and operations update for continued operations. 5M, Inc. would like very much to accommodate this request and be able to resume operations again. And now with EPA's current letter as referenced above, with mandates requiring a response within seven days, and a closing date of November 30, 1994 for reaching a formal agreement which will satisfy EPA, 5M, Inc. is simply overwhelmed by it all!

The question naturally arises, Just what governmental entity has jurisdiction at the Site? We in 5M, Inc. have sought legal advice and have been told that under such circumstances as these, the bottom line is that the only one having actual, legal jurisdiction over lands within Washington County is the Washington County Sheriff. To say the least, 5M, Inc. is totally confused as to which mandates and orders have legal jurisdiction. All the above governmental agencies quote their respective legal authority and among themselves are in conflict with each other.

On the other hand, 5M, Inc. continues to believe that we are in compliance with the operations as initially discussed and in control of the situation. With the Color Country Subdivision matter now resolved, and subject to updates and additional bonding with the State of Utah, the bulk of the problem at the Site is over. However, your suggestion for drainage controls does have merit. 5M, Inc. has suggested to the Color Country Subdivision on several occasions over the past ten years that the irrigation water and open ditch serving their agricultural needs should be piped as it traverses the Site, through the 5M, Inc. lands, to their property. We are now again suggesting to the subdivision management and to the Leeds Irrigation Company that this final step be accomplished. When completed, this will be a drainage control measure sufficient to cure the problem of water leaking from an unlined, open ditch into the subsurface strata and mine shafts. Of particular note, the basin is closed, and when open ditch water leaks into the basin, it eventually has a ground water buildup together with a mine flood problem. However, to complete

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this small undertaking is quite properly a local, personal matter among the three entities mentioned above, and hardly needs federal intervention, and all the higher costs to do the job.

The EPA order to produce this letter within the seven days time limitation is hereby met. The demand, however, that the period of time allotted for 5M, Inc. to negotiate an Agreement so extensive and potentially costly as one might expect, and to do so prior to November 30th, 1994, is ridiculous and impossible to accommodate, and is hardly a good faith measure.

The EPA has stated in the reference that their Plan of Action with respect to the Site is not yet completed, nor has 5M, Inc. been given an opportunity to review any part of it, or participate in the decisions. How can 5M, Inc. be expected to formalize what may be huge potential liability responsibilities and agreements without the facts and communications to base decisions and cost estimates on - let alone whether 5M, Inc. agrees with such actions?

As stated in the reference, the EPA will bring a Public File to a location near the Site with documents for the Plan of Action, and at that time 5M, Inc. may review the plan along with the public. This apparently will occur long after 5M, Inc. has been pressured into signing responsibility for the unknown. The reference states the legal and factual discussions contained in the letter are intended for notification and information purposes only. This is hardly consistent with the demands stated therein.

Again the question is raised, Is 5M, Inc. to understand that an EPA takeover, such as this, is to put an end to mining and processing operations of the Silver Reef ores, or that such operations will have to be indefinitely suspended? Is the small business man, such as 5M, Inc., in a position where they no longer have a right to conduct business and are so vulnerable as to be put into bankruptcy if business is shut down and forced to accommodate unreasonable costs and mandates by Federal Bureaus and Departments? These are very important and serious questions and issues to small business people!

5M, Inc. has stated many times, for the record, that good faith negotiations are desired, and we hold today to that same position, but we do not feel that the EPA is in any way attempting good faith negotiations with the approach now taken in the EPA letter, referenced above. Our door is open at any time for meetings, just as we have stated in the letters and documents previously submitted to the EPA. Today, only Mr. Rhodes has officially visited our office, which meeting was very cordial, but only for general discussions. It appears, therefore, that we must bring our Senators and Congressmen into this situation to help monitor where we go from here. We have received much help and support from them in the past, and believe they can help us all in resolving this current matter - so it doesn't get out of hand.

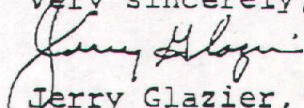
We may need to initiate meetings with U.S. Senators' Orrin Hatch and Robert Bennett, and U.S. Congressmen James Hansen and

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Bill Orton, as well as Utah State Representatives' Met Johnson and Bill Hickman. It may require that we all plan to meet in the Salt Lake City Federal offices, or in Washington D. C.

If you feel there is a more productive approach to resolving these issues involved, please advise us in order that we may evaluate the merits of such.

Very sincerely,


Jerry Glazier,
President

JG:ts

cc: Ms. Susan Nash
Mr. James R. Rhodes

With referenced EPA letter enclosed:

U.S. Senator Orrin Hatch
U.S. Senator Robert Bennett
U.S. Representative James Hansen
U.S. Representative Bill Orton
Utah State Representative Met Johnson
Utah State Representative Bill Hickman
Washington County Sheriff Glenwood Humphries